

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23119 of 2004

Between:

Ch. Appa Rao, S/o. Appanna, Hindu,
R/o. Lakkavaram, Chodavaram Mandalam, Visakhapatnam.

..... PETITIONER

AND

- 1 The Superintending Engineer, Assessments, A.P.E.P.D.C.Ltd.,
Opp. Hotel Green Park, Maharnipeta Post,
Visakhapatnam - 530 002.
- 2 The Assistant Divisional Engineer, Opeation, A.P.E.P.D.C.Ltd.,
Chodavaram, Visakhapatnam District.
- 3 The Additional Assistant Engineer, Opeation, A.P.E.P.D.C.Ltd.,
Chodavaram, Visakhapatnam District.
- 4 The Assistant Accounts Officer, Electricity Revenue Office, A.P.E.P.D.C.Ltd.,
Anakapalli, Visakhapatnam District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to declare the Provisional Assessment Notice dated 19-10-2004 issued by the 2nd Respondent and consequential disconnection of the power supply to the Service No. 374 of the petitioner as without jurisdiction and arbitrary by issuing a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus and consequently to set aside the Provisional Assessment Notice dated 19-10-2004 and direct the Respondents to restore the power supply of the petitioner bearing Service No. 374 forthwith and to pass such other or further orders

Counsel for the Petitioner:MR.G.RAMA GOPAL

Counsel for the Respondent : SMT.M.VINOBHA DEVI

The Court made the following :

THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

W.P.NO.23119 OF 2004

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ORDER:

The petitioner had established a small industry of rice and floor mill, and is connected with power supply to run a 10 H.P. motor. The respondents issued an order of provisional assessment dated 10-10-2004, alleging that the petitioner had resorted to acts of pilferage, valued at Rs.1,86,619/-. A criminal case is also filed against him. On the ground that the amount was not paid, the power supply is disconnected. The petitioner challenges the notice as well as the consequential action.

Heard the learned counsel for the petitioner and learned Standing Counsel for the respondents.

Several grounds are urged before this Court, touching on the interpretation of Section 49 (c) of the Indian Electricity Act, 1910, as well as Section 154 of Electricity Act, 2003.

The petitioner was issued an order of provisional assessment, pointing out the amount of value of the power alleged to have been pilfered. The question as to whether the petitioner is guilty of such activity, has to be determined only after a show cause notice is issued and an order is passed, after considering the explanation. A Division Bench of this Court held that an order of provisional assessment cannot be the basis to fix the liability on the consumer, nor the supply can be disconnected for non-payment of the amount indicated therein.

Following the same, the writ petition is disposed of, directing that the liability of the petitioner to pay any amount towards pilferage of electricity, shall be determined

only through an order of final assessment, and that the power supply to the petitioner shall be restored and continued in the meanwhile, subject to his payment of actual consumption charges. There shall be no order as to costs.

L. NARASIMHA REDDY, J.

Dt.14-12-2004

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To

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